

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Kathleen Ann Thornberry,

Chapter 7

Debtor(s).

BK 02-32159 GFK

Habbo G. Fokkena, United States Trustee

Plaintiff,

vs.

Adv. No.

Kathleen Ann Thornberry,

Defendant(s).

COMPLAINT TO REVOKE DISCHARGE

Habbo G. Fokkena, United States Trustee, Plaintiff, by and through his undersigned attorney, Sarah J. Wencil, for his complaint against Kathleen Ann Thornberry, defendant debtor, states and alleges that:

1. This complaint is filed under FED. R. BANKR. P. 7001(4) and seeks an order revoking the debtor's discharge pursuant to 11 U.S.C. § 727(d)(3).
2. This court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§ 157 and 1334 and FED. R. BANKR. P. 4004. This proceeding is a core proceeding.
3. The United States Trustee has standing to commence this adversary proceeding pursuant to 28 U.S.C. § 586(a) and 11 U.S.C. §§ 307 & 727(d).
4. Upon information and belief, the defendant debtor, Kathleen Ann Thornberry, is a resident of Minnesota.
5. The defendant debtor commenced the present bankruptcy case on June 7, 2002. *See Att.*

Ex. 1 (BANCAP Report). A discharge was granted on September 10, 2002. *See Id.* The case has not been closed as of the date this complaint was prepared by the undersigned.

6. The Chapter 7 Trustee wrote letters to the debtor on January 21, 2003 and April 9, 2003 to request copies of 2001 and 2002 state and federal tax returns. *See Att. Ex. 2* (Affidavit of Nauni J. Manty). On August 7, 2003, the Chapter 7 Trustee filed a turnover motion for the documents. *Id.* On September 3, 2003, the Bankruptcy Court entered an Order granting the motion and ordered the debtor to turnover the requested returns within five days, or, on or before September 8, 2003. *Id.* As of this date, the defendant debtor has failed to turnover the state and federal income tax refunds. *Id.*

7. To date, the defendant debtor has failed to comply with the Bankruptcy Court's Order dated September 3, 2003.

8. Pursuant to 11 U.S.C. § 727(a)(6)(A), the defendant debtor has failed to obey a lawful order of the court.

9. 11 U.S.C. § 727(d)(3) provides that a basis to revoke a discharge exists if the debtor (defendant) commits an act specified in subsection (a)(6) of Section 727.

WHEREFORE, the Plaintiff requests that this Court enter judgment revoking the defendant debtor's discharge herein, together with such other and further relief as the Court seems just.

Dated: January 26, 2004

HABBO G. FOKKENA
UNITED STATES TRUSTEE
REGION 12

BY: /s/ Sarah J. Wencil
Sarah J. Wencil
Trial Attorney
Office of the United States Trustee
Suite 1015 U.S. Courthouse
300 S. 4th Street
Minneapolis, MN 55415
(612) 664-5500
IA ATTY NO. 14014

[Return to Search Results Page](#)

U.S. Bankruptcy Court
District of Minnesota (St. Paul)

Bankruptcy Petition #: 02-32159

Date filed: 6/7/02
Assigned to: CHIEF JUDGE GREGORY F KISHEL
Chapter 7 voluntary individual no asset

===== * Attorneys *

KATHLEEN ANN THORNBERRY
9942 HAMLET AVE S
COTTAGE GROVE, MN 55016
SSN: XXX-XX-1069
* Debtor *

STEVEN C OPHEIM
DUDLEY & SMITH PA
101 E 5TH ST STE 2602
ST PAUL, MN 55101
651-291-1717

NAUNI JO MANTY
RIDER BENNETT LLP
333 S 7TH ST STE 2000
MINNEAPOLIS, MN 55402
* Trustee *

U S TRUSTEE
1015 U S COURTHOUSE
300 S 4TH ST
MINNEAPOLIS, MN 55415
* U S Trustee *

Proceedings include all events.

6/7/02	1	Voluntary Petition all schedules and statements. (Filing Fee \$ 200.00 Receipt # 127596) (dlt) [EOD 06/07/02]
6/7/02	2	Appointment of Interim Trustee and Approval of Bond. (dlt) [EOD 06/07/02]
6/10/02	3	Notice of Meeting of Creditors under 11 USC 341(a) Scheduled For 10:30 7/9/02 At St. Paul Last Day To Oppose Discharge: 9/9/02 Certificate of Service. (dlt) [EOD 06/10/02]
6/19/02	4	Notice of Returned Mail Re: Creditor LAND SHARK MGMT CO. (dlt) [EOD 06/19/02]
7/18/02	5	Notice of Rescheduled [3-1] Meeting filed by STEVEN C OPHEIM for Debtor KATHLEEN ANN THORNBERRY. Certificate of Service. (dlt) [EOD 07/18/02]

Docket as of January 26, 2004 8:40 am

Page 1

Proceedings include all events.

02-32159 In re: KATHLEEN ANN THORNBERRY

7/23/02 6 Notice of Returned Mail Re: Creditor LAND SHARK MGMT CO.
(tms) [EOD 07/23/02]

8/2/02 7 Notice of Hearing and Motion by Creditor ABN AMRO MORTGAGE
(GESKE) For Relief From Stay . Hear Scheduled for 1:00
9/9/02 at Courtroom 228B (St. Paul) , Filing fee paid \$
75.00, Record: E8127; Affidavit, Memorandum of Law, Proof
of Service, Proposed Order. (A139) [EOD 08/02/02]

8/2/02 -- Filing Fee Paid in Full Re: [7-1] Motion For Relief From
Stay by ABN AMRO MORTGAGE (GESKE) (Filing Fee \$ 75.00
Receipt # 129043) (dlt) [EOD 08/06/02]

9/9/02 -- ELECTRONIC Minutes Re: [7-1] Motion For Relief From Stay by
ABN AMRO MORTGAGE (GESKE) . GRANTED BY DEFAULT. (hcm)
[EOD 09/09/02]

9/9/02 8 ELECTRONIC Order Granting [7-1] Motion For Relief From
Stay by ABN AMRO MORTGAGE (GESKE) . (GFK) court's
certificate of mailing. (hcm) [EOD 09/09/02]

9/10/02 9 Order Discharging Debtor KATHLEEN ANN THORNBERRY .
Certificate of Service. (sja) [EOD 09/10/02]

5/7/03 10 Notice of appearance and request for notice by LINDA
JEANNE JUNGERS for AMERICAN SUZUKI AUTOMOTIVE
CREDIT(JUNGER (intp) . (lje) [EOD 05/07/03]

5/14/03 11 Notice of Hearing and Motion by Interested Party AMERICAN
SUZUKI AUTOMOTIVE CREDIT(JUNGER For Relief From Stay .
Hearing Scheduled for 10:30 6/16/03 at Courtroom 228B (St.
Paul) , Filing fee paid \$ 75.00, Record: E12122; Affidavit,
Memorandum of Law, Proof of Service, Proposed Order. (A061)
[EOD 05/14/03]

5/14/03 -- Filing Fee Paid in Full Re: [11-1] Motion For Relief From
Stay by AMERICAN SUZUKI AUTOMOTIVE CREDIT(JUNGER (Filing
Fee \$ 75.00 Receipt # 136449) (dlt) [EOD 05/16/03]

6/16/03 -- ELECTRONIC Minutes Re: [11-1] Motion For Relief From Stay
by AMERICAN SUZUKI AUTOMOTIVE CREDIT. MOTION GRANTED BY
DEFAULT. (jrb) [EOD 06/16/03]

6/16/03 12 ELECTRONIC Order Granting [11-1] Motion For Relief From
Stay by AMERICAN SUZUKI AUTOMOTIVE CREDIT. (GFK) COURT'S
CERTIFICATE OF MAILING. (jrb) [EOD 06/16/03]

8/7/03 13 Notice of Hearing and Motion by Trustee NAUNI JO MANTY to
Turn Over Property . Hearing Scheduled for 3:00 9/2/03 at
Courtroom 228B (St. Paul) Affidavit, Memorandum of Law,
Proof of Service, Proposed Order. (A130) [EOD 08/07/03]

Proceedings include all events.

02-32159 In re: KATHLEEN ANN THORNBERRY

9/2/03 --- ELECTRONIC Minutes Re: [13-1] Motion to Turn Over Property
by NAUNI JO MANTY. MOTION GRANTED BY DEFAULT. (jrb)
[EOD 09/03/03]

9/3/03 14 ELECTRONIC Order Granting [13-1] Motion to Turn Over
Property by NAUNI JO MANTY. (GFK) COURT'S CERTIFICATE OF
MAILING. (jrb) [EOD 09/03/03]

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Chapter 7 Case

Kathleen Ann Thornberry,

Bky. No. 02-32159-GFK

Debtor.

AFFIDAVIT OF NAUNI J. MANTY

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

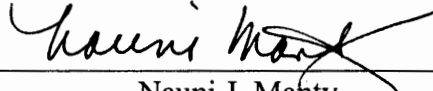
Nauni J. Manty, being first duly sworn on oath, deposes and states:

1. I was appointed as the Chapter 7 Trustee to oversee the administration of the above-captioned case on June 10, 2002.
2. August 23, 2002, January 21, 2003 and April 9, 2003 , my Paralegal, Nancy Jaeckels, sent letters to the Debtor's attorney requesting that the Debtor turnover copies of her 2001 and 2002 state and federal tax returns. Copies of the letters are attached hereto as Exhibit A.
3. On August 7, 2003, I filed a Notice of Hearing, Verified Motion for Turnover to the Trustee of Property of the Estate and Memorandum of Law in Support of Motion, requesting turnover of Debtor's 2001 and 2002 state and federal income tax returns (the "Returns").
4. On September 3, 2003, the Court granted the Motion for Turnover. A copy of the Court's Order is attached hereto as Exhibit B. Pursuant to the Order, the Debtor was required to turn over the requested Returns within 5 days, or, on or before September 8, 2003. The Debtor's failure to comply with the Order is grounds for revocation of discharge pursuant to 11 U.S.C. § 727(a)(6)(A).

5. On September 11, 2003, October 2, 2003, October 23, 2003 and November 20, 2003, my Paralegal, Nancy Jaeckels, sent letters to the Debtor's attorney, enclosing copies of the Order and requesting compliance with the Order. Copies of the letters are attached hereto as Exhibit C.

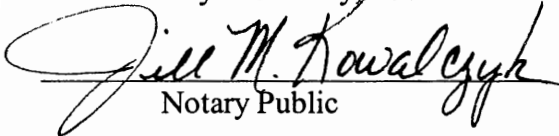
6. To date, the Debtor has not provided the Trustee with copies of Returns, nor made any payments to the bankruptcy estate.

FURTHER, AFFIANT SAYETH NOT.

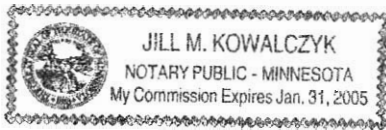


Nauni J. Mahty

Subscribed and sworn to before me
this 22nd day of January, 2004.



Notary Public



**BLACKWELL IGBANUGO
ENGEN & SAFFOLD**

Nancy L. Jaeckels
Direct Dial: 952-646-0433
E-Mail: njaeckels@blackwell-law.com

April 9, 2003

SECOND REQUEST

Kathleen Ann Thornberry
9942 Hamlet Avenue South
Cottage Grove, MN 55016

Re: 2002 State and Federal Income Tax Returns

Dear Ms. Thornberry:

This is a follow up to the Trustee's original request. Please turnover to the Trustee, Nauni Manty copies of your 2002 State and Federal Income Tax Returns, when prepared. If you have requested an extension to file, a copy of that extension must be sent to the Trustee.

The bankruptcy estate may have an interest in any refunds received. Therefore, do not spend refunds.

If you have any questions, please give me a call.

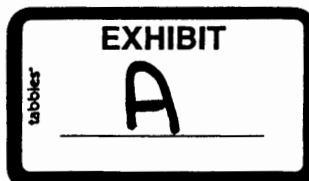
Sincerely,



Nancy L. Jaeckels
Paralegal

cc: Steven C. Opheim
Dudley & Smith PA
101 E. 5th Street
Suite 2602
St. Paul, MN 55101

Attorneys at Law (P.A.)
3601 W. 76th Street
Suite 250
Minneapolis, MN 55435
www.blackwell-law.com
952.646.0400
952.646.0450 fax



**BLACKWELL IGBANUGO
ENGEN & SAFFOLD**

Nancy L. Jaeckels
Direct Dial: 952-646-0433
E-Mail: njaeckels@blackwell-law.com

January 21, 2003

Kathleen Ann Thornberry
9942 Hamlet Avenue South
Cottage Grove, MN 55016

Re: 2002 State and Federal Income Tax Returns

Dear Ms. Thornberry:

This is a follow up to the Trustee's original request. Please turnover to the Trustee, Nauni Manty copies of your 2002 State and Federal Income Tax Returns, when prepared. If you have requested an extension to file, a copy of that extension must be sent to the Trustee.

The bankruptcy estate may have an interest in any refunds received. Therefore, do not spend refunds.

If you have any questions, please give me a call.

Sincerely,



Nancy L. Jaeckels
Paralegal

cc: Steven C. Opheim
Dudley & Smith PA
101 E. 5th Street
Suite 2602
St. Paul, MN 55101

Attorneys at Law (P.A.)
3601 W. 76th Street
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**BLACKWELL IGBANUGO
ENGEN & SAFFOLD**

Nancy L. Jaeckels
Direct Dial: 952-646-0433
E-Mail: njaeckels@blackwell-law.com

August 23, 2002

Steven C. Openheim, Esq.
Dudley & Smith PA
101 E. 5th St., Suite 2602
St. Paul, MN 55101

Re: Kathleen Ann Thornberry
Bkcy Case No. 02-32159

Dear Mr. Openheim:

This is a follow up to the Trustee's review at the 341 Meeting of Creditors. Please instruct the Debtor to turnover to the Trustee, the following:

1. 2001 State and Federal Income Tax Returns; and
2. 2002 State and Federal Income Tax Returns, when filed.

The estate may have an interest in any refunds received.

Please provide the 2001 tax returns on or before September 15, 2002. If the Trustee will not be receiving the returns by that date, please let us know an approximate date that we can expect to receive them.

If you have any questions, please give me a call.

Sincerely,



Nancy L. Jaeckels
Paralegal

Attorneys at Law | P.A.
3601 W. 76th Street
Suite 250
Minneapolis, MN 55435
www.blackwell-law.com
952.646.0400
952.646.0450 fax

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

KATHLEEN ANN THORNBERRY,

Case No. 02-32159

ORDER

Debtor.

The above-captioned matter came on before this Court on the motion of the Trustee, Nauni Jo Manty, for the turnover of Debtor's 2001 and 2002 state and federal income tax returns.

Based upon all of the files, records and proceedings herein,

IT IS HEREBY ORDERED:

1. The Trustee's Motion for Turnover is granted.
2. The Debtor shall turn over the 2001 and 2002 state and federal income tax returns within five days of this Order.
3. The Debtor shall also pay the Trustee \$500.00 as and for attorney's fees awarded in bringing this motion.

Dated: September 3, 2003.

BY THE COURT

1E/ Gregory G. Kishel

Chief Judge, United States Bankruptcy Court

14-1

NOTICE OF ELECTRONIC ENTRY AND
FILING ORDER OR JUDGMENT
Filed and Docket Entry made on 09/03/03
Patrick G. De Wane, Clerk, By jrb

1021815-1

EXHIBIT

B



RIDER BENNETT

Attorneys at Law
A Limited Liability Partnership

333 South Seventh Street
Suite 2000
Minneapolis, MN 55402

Telephone • 612 • 340 • 8900
Fax • 612 • 340 • 7900
www.riderlaw.com

Nancy L. Jaeckels
Trustee Administrator
(612) 335-3930
nljaeckels@riderlaw.com

November 20, 2003

Steven C. Opheim
Dudley and Smith, P.A.
2602 US Bank Center
101 East Fifth Street
St. Paul, MN 55101

Re: Kathleen A. Thornberry
Bkcy Case No. 02-32159

Dear Mr. Opheim:

Enclosed please find a copy of the September 3, 2002 Order granting Trustee's Motion for Turnover. We have had no response to our letters regarding turnover. Please instruct the Debtor to **immediately** turnover copies of her 2001 and 2002 state and federal income tax returns and refunds, if any. Also instruct the Debtor to **immediately** send a check made payable to Nauni Jo Manty, Chapter 7 Trustee, at the above address for the court ordered attorney's fees in the amount of \$500.00.

If I have not received the requested documents by **December 3, 2003**, I will start the process to have the Debtor's discharge revoked.

If you have any questions, please give me a call.

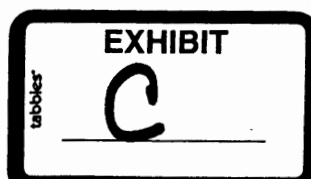
Very truly yours,

RIDER BENNETT, LLP

By Nancy L. Jaeckels
Nancy L. Jaeckels

NLJ

1064249-1





RIDER BENNETT

A Limited Liability Partnership

333 South Seventh Street
Suite 2000
Minneapolis, MN 55402

Telephone • 612 • 340 • 8900
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Nancy L. Jaeckels
Trustee Administrator
(612) 335-3930
nljaeckels@riderlaw.com

October 28, 2003

Steven C. Opheim
Dudley and Smith, P.A.
2602 US Bank Center
101 East Fifth Street
St. Paul, MN 55101

Re: Kathleen A. Thornberry
Bkcy Case No. 02-32159

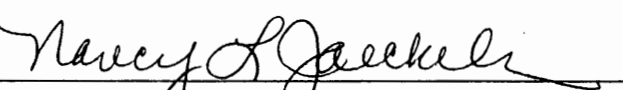
Dear Mr. Opheim:

We have had no response to our October 9, 2003. Please instruct the Debtor to **immediately** turnover copies of her 2001 2002 state and federal income tax returns . Also instruct the Debtor to **immediately** send a check made payable to Nauni Jo Manty, Chapter 7 Trustee, at the above address for the court ordered attorney's fees in the amount of \$500.00.

If you have any questions, please give me a call.

Very truly yours,

RIDER BENNETT, LLP

By 
Nancy L. Jaeckels

NLJ



RIDER BENNETT

Attorneys at Law
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Nancy L. Jaeckels
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(612) 335-3930
nljaeckels@riderlaw.com

October 9, 2003

Steven C. Opheim
Dudley and Smith, P.A.
2602 US Bank Center
101 East Fifth Street
St. Paul, MN 55101

Re: Kathleen A. Thornberry
Bkcy Case No. 02-32159

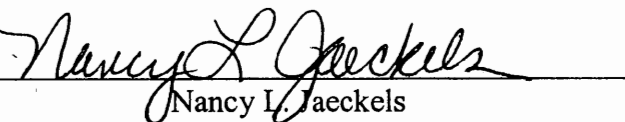
Dear Mr. Opheim:

This is a follow up to your letter dated September 15, 2003 in which you indicated that the Debtor's 2001 and 2002 income tax returns were expected to be completed with the next week or two. The Trustee has not received the tax returns. Please instruct the Debtor to immediately turnover copies of her 2001 2002 state and federal income tax returns. If the returns are not received on or before October 23, 2003, the Trustee will enforce the court order awarding attorney's fees in the amount of \$500.00

If you have any questions, please give me a call.

Very truly yours,

RIDER BENNETT, LLP

By 
Nancy L. Jaeckels

NLJ



RIDER BENNETT

Attorneys at Law
A Limited Liability Partners.

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Nancy L. Jaeckels
Trustee Administrator

September 11, 2003

Ms. Kathleen Ann Thornberry
9942 Hamlet Avenue S.
Cottage Grove, MN 55016

Re: Kathleen Ann Thornberry
BKY 02-32159-GFK

Dear Ms. Thornberry:

Enclosed is a copy of the September 3, 2003 Order granting Trustee's Motion for Turnover. Please send me your 2001 and 2002 state and federal income tax returns, and a check for \$500.00 made payable to Nauni Jo Manty, **by September 16, 2003**. If I do not receive the requested information by that time, I will start the process to have your discharge revoked.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

RIDER BENNETT, LLP

By Nancy L. Jaeckels
Nancy L. Jaeckels

NLJ/jmk
Enclosures

cc: Steven C. Opheim, Esq.
Dudley & Smith PA
101 E. 5th Street, Suite 2602
St. Paul, MN 55101

VERIFICATION

I, Sarah J. Wencil, a trial attorney for the United States Trustee, the petitioner herein, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on January 26, 2004

/s/ Sarah J. Wencil
Sarah J. Wencil
Trial Attorney
Suite 1015 U.S. Courthouse
300 S. 4th Street
Minneapolis, MN 55415
(612) 664-5500
IA ATTY NO. 14014